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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/733,000	12/11/2003	James D. Reinke	P-10062.02	8311
27581	7590	05/15/2006		
MEDTRONIC, INC. 710 MEDTRONIC PARK MINNEAPOLIS, MN 55432-9924			EXAMINER LAYNO, CARL HERNANDZ	
			ART UNIT	PAPER NUMBER
			3766	

DATE MAILED: 05/15/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/733,000

Applicant(s)

REINKE ET AL.

Examiner

Carl H. Layno

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 December 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-32 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-20 and 22-28 is/are allowed.
- 6) ☒ Claim(s) 21 and 29-31 is/are rejected.
- 7) ☒ Claim(s) 32 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 11 December 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 5/18/2005
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____

DETAILED ACTION

Priority

1. Acknowledgment is made of applicant's claim for priority filing as a Continuation-In-Part (CIP) to U.S Application Serial No. 10/254,236, now U.S Patent No. 7,013,178,

Information Disclosure Statement

2. Acknowledgment is made of applicant's Information Disclosure Statement (PTO-1449), which was received by the Office on May 18, 2005.

Drawings

3. Applicant's formal drawings were received by the Office on December 11, 2003 and have been approved by the Examiner.

Claim Rejections - 35 USC § 112

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claims 21, 30, and 31 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In regard to claim 21, the claim is confusing and appears to be incomplete. The language in line 5, "'0' during one of the bit times to, and indicates..." doesn't make sense. Also, a

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“plurality of bit times” (line 3) is recited. It is unclear whether or not the “1” (line 7) is generated during (and in place of) the bit time of the “0” or occurs at a different bit time.

In regard to claim 30, line 2, the statement “claim 29, herein the communication unit” is indefinite and appears to be a typographical error. To overcome this rejection, the Examiner recommends changing “herein” to “wherein”.

Claim 31 is also rejected since it depends upon rejected base claim 30.

Double Patenting

6. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the “right to exclude” granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

7. Claim 29 is rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claim 34 of U.S. Patent No. 7,013,178. Although the conflicting claims are not identical, they are not patentably distinct from each other because each recites details of an implantable medical device communications system including an implantable medical device,

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a bus for transmitting power and commands, and a slave device. The '178 patent specifies a "two-wire" bus for receiving a "communications signal" defined in claim 34, lines 5-7 as being composed of "data from a controller" and "power from a power supply". Information communicated from the implantable device to the slave device includes an "extendable command set" (claim 34, lines 20-21). In both claims, a "recovery unit" for recovering power forms part of the "slave device".

Allowable Subject Matter

8. Claim 32 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

9. Claims 21, 30, and 31 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

10. Claims 1-20 and 22-28 are allowed.

11. The following is an examiner's statement of reasons for allowance:

Independent claims 1 and 20 recite details of implantable medical device communications systems including an implantable medical device, a two-wire bus, and a slave device. The claims further specify the use of bit times and particular voltage levels (claim 1), and

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of “start” and “stop” sequences (claim 20), wherein “power status” of the slave device is output during the “stop” sequence. Unable to find these details and all of applicant’s other claimed combination of features, the Examiner deems these claims and their depending claims to be allowable.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled “Comments on Statement of Reasons for Allowance.”



CARL LAYNO
PRIMARY EXAMINER

CHL
5/11/2006